

**SECRET**

L5-426

## OGC HAS REVIEWED.

Chief, Military Personnel Division

19 March 1951

Office of General Counsel

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1. One of the operating offices has requested determination of the applicability of certain laws to the retirement of Colonel [REDACTED]. Such a determination can be made only if we know the exact nature of his retirement, and we are turning to you for that information.

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2. In an earlier conversation with you, we were informed that [REDACTED] was retired because he was permanently unfit for duty, by reason of physical disability of 60%, incurred while serving on active duty, in accordance with Sections 402 and 409 of the Act of 12 October 1949, Public Law 351, 81st Congress.

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3. Our specific question concerns the subsection of Section 402 applicable in this case. If [REDACTED] was retired under 402(a), a determination was made that his disability was the "proximate result of the performance of active duty;" if he was retired under 402(b), a determination was made that his disability was incurred "while entitled to receive basic pay."

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4. Please inform us whether [REDACTED] was retired under 402(a) or 402(b), and if possible, the exact language used by the retirement board.

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cc: ✓ Subject  
Chrono

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